

First Amendment to the  
Draft Environmental Impact Report

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# Sun Garden Redevelopment Project

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(File No: GP10-07-101/PDC10-026)

City of San José

May 2011

## **PREFACE**

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This document, the First Amendment to the Draft Environmental Impact Report (DEIR), together with the DEIR constitutes the Final Environmental Impact Report (FEIR) for the Sun Garden Redevelopment project. The DEIR was circulated to affected public agencies and interested parties for a 45-day review period from February 28 to April 15, 2011. This volume consists of comments received by the Lead Agency on the DEIR during the public review period, responses to those comments, and revisions to the text of the DEIR.

In conformance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines, the FEIR provides objective information regarding the environmental consequences of the proposed project. The FEIR also examines mitigation measures and alternatives to the project intended to reduce or eliminate significant environmental impacts. The FEIR is intended to be used by the City and any Responsible Agencies in making decisions regarding the project. The CEQA Guidelines advise that, while the information in the FEIR does not control the agency's ultimate discretion on the project, the agency must respond to each significant effect identified in the DEIR by making written findings for each of those significant effects.

According to the State Public Resources Code (Section 21081), no public agency shall approve or carry out a project for which an environmental impact report has been certified which identifies one or more significant effects on the environment that would occur if the project is approved or carried out unless both of the following occur:

- (a) The public agency makes one or more of the following findings with respect to each significant effect:
  - (1) Changes or alterations have been required in, or incorporated into, the project which will mitigate or avoid the significant effect on the environment.
  - (2) Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.
  - (3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities of highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report.
- (b) With respect to significant effects which were subject to a finding under paragraph (3) of subdivision (a), the public agency finds that specific overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects on the environment.

In accordance with CEQA and the CEQA Guidelines, the FEIR will be made available for 10 days prior to certification of the EIR. All documents referenced in this FEIR are available for public review in the office of the Department of Planning, Building and Code Enforcement, 200 E. Santa Clara Street, San José, California, on weekdays during normal business hours.

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**I. LIST OF AGENCIES AND ORGANIZATIONS TO WHOM THE DRAFT EIR WAS SENT**

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**State Agencies**

California Air Resources Board  
California Department of Fish and Game, Region 3  
California Department of Parks and Recreation  
California Department of Transportation, District 4  
California Department of Water Resources  
California Highway Patrol  
California Natural Resources Agency  
California Office of Historic Preservation  
California Public Utilities Commission  
California Water Resources Control Board  
Central Valley Flood Protection Board  
Department of Toxic Substances Control  
Native American Heritage Commission  
State Clearinghouse – Office of Planning and Research

**Regional Agencies**

Bay Area Air Quality Management District  
California Regional Water Quality Control Board, San Francisco Bay Region 2  
Santa Clara County Roads and Airports Department  
Santa Clara Valley Transportation Authority (VTA)  
Santa Clara Valley Water District

**Organizations**

Union Pacific Railroad

## **II. LIST OF COMMENT LETTERS RECEIVED ON THE DRAFT EIR**

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### **State Agencies**

- |    |   |                   |
|----|---|-------------------|
| A. | California Public Utilities Commission  | February 22, 2011 |
| B. | California Department of Transportation | April 20, 2011    |

### **Regional Agencies**

- |    |  |                |
|----|--|----------------|
| C. | County of Santa Clara, Roads and Airports Department | March 7, 2011  |
| D. | Santa Clara Valley Water District                    | March 10, 2011 |
| E. | Santa Clara Valley Transportation Authority          | April 15, 2011 |

### **III. RESPONSES TO COMMENTS RECEIVED ON THE DRAFT EIR**

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The following section includes all the comments on the DEIR that were received by the City in letters and emails during the 45-day review period. The comments are organized under headings containing the source of the letter and the date submitted. The specific comments from each of the letters or emails are presented as “Comment” with each response to that specific comment directly following. Each of the letters and emails submitted to the City of San José are attached in their entirety (with any enclosed materials) in Section V of this document.

CEQA Guidelines Section 15086 requires that a local lead agency consult with and request comments on the Draft EIR prepared for a project of this type from responsible agencies (government agencies that must approve or permit some aspect of the project), trustee agencies for resources affected by the project, adjacent cities and counties, and transportation planning agencies. Section I of this document lists all of the recipients of the DEIR.

All of the comment letters received are from public agencies, three of whom may be Responsible Agencies under CEQA for the proposed project. The CEQA Guidelines require that:

A responsible agency or other public agency shall only make substantive comments regarding those activities involved in the project that are within an area of expertise of the agency or which are required to be carried out or approved by the responsible agency. Those comments shall be supported by specific documentation. [§15086(c)]

Regarding mitigation measures identified by commenting public agencies, the CEQA Guidelines state that:

Prior to the close of the public review period, a responsible agency or trustee agency which has identified what the agency considers to be significant environmental effects shall advise the lead agency of those effects. As to those effects relevant to its decisions, if any, on the project, the responsible or trustee agency shall either submit to the lead agency complete and detailed performance objectives for mitigation measures addressing those effects or refer the lead agency to appropriate, readily available guidelines or reference documents concerning mitigation measures. If the responsible or trustee agency is not aware of mitigation measures that address identified effects, the responsible or trustee agency shall so state. [§15086(d)]

The CEQA Guidelines state that the lead agency shall evaluate comments on the environmental issues received from persons who reviewed the DEIR and shall prepare a written response to those comments. The lead agency is also required to provide a written proposed response to a public agency on comments made by that public agency at least 10 days prior to certifying an environmental impact report. This FEIR contains written responses to all comments made on the DEIR received during the advertised 45-day review period. Copies of this FEIR have been supplied to all persons and agencies that submitted comments.

**A. RESPONSE TO COMMENTS FROM CALIFORNIA PUBLIC UTILITIES COMMISSION, FEBRUARY 22, 2011:**

**Comment A-1:** As the state agency responsible for rail safety within California, the California Public Utilities Commission (CPUC or Commission) recommends that development projects proposed near rail corridors be planned with the safety of these corridors in mind. New developments and improvements to existing facilities may increase vehicular traffic volumes, not only on streets and at intersections, but also at at-grade highway-rail crossings. In addition, projects may increase pedestrian traffic at crossings, and elsewhere along rail corridor rights-of-way. Working with CPUC staff early in project planning will help project proponents, agency staff, and other reviewers to identify potential project impacts and appropriate mitigation measures, and thereby improve the safety of motorists, pedestrians, railroad personnel, and railroad passengers.

The CPUC recommends the Transportation/Circulation section of the DEIR specifically evaluate traffic safety issues to the at-grade railroad crossings located in proximity to the proposed project site. Any increase in traffic by this project needs to be evaluated for potential impacts.

**Response A-1:** The project proposes to relocate the UPRR crossing gate currently located on Alma Avenue west of the proposed project driveway so that the proposed driveway is located outside the gate. The TIA (pages 36-37) and DEIR (page 85, Section 4.8.3.4) discuss the operational aspects (i.e., queue lengths) of the proposed Alma Avenue driveway based on the project's proposal to relocate the UPRR crossing gate and the assumption that the driveway could operate as a full access driveway.

Relocation of the crossing gate would require UPRR approval. At the time the DEIR was circulated, there was no final determination by UPRR or City Staff on the proposed relocation of the crossing gate. If UPRR approves relocation of the crossing gate, then the City will review the proposed design and determine if the Alma Avenue driveway can safely operate as a full access driveway. If the UPRR does not approve relocation of the crossing gate then the project cannot have driveway access on Alma Avenue. Therefore, the project would have no impact on the operations of the at-grade crossing and would not create any safety issues.

There are no residences within a reasonable walking distance east of the project site. All nearby residences are to the north and west of the project site. Therefore, future site users from the residential areas would not need to cross the railroad tracks to access the project site.

There are no sidewalks on the south side of Alma Avenue east of the Southern Lumber property and no sidewalks on the north side of Alma Avenue along the railroad right-of-way because of the lack of pedestrian activity along this section of Alma Avenue. Due to the location of residences relative to the project site and the limited pedestrian facilities on Alma Avenue, pedestrian traffic to/from the project site would not interfere with railway operations or result in a safety impact.

**Comment A-2:** In general, the major types of impacts to consider are collisions between trains and vehicles, and between trains and pedestrians. Measures to reduce adverse impacts to rail safety need to be considered in the DEIR. General categories of such measures include:

- Installation of grade separations at crossings, i.e., physically separating roads and railroad track by constructing overpasses or underpasses
- Improvements to warning devices at existing highway-rail crossings
- Installation of additional warning devices
- Improvements to traffic signaling at intersections adjacent to crossings, e.g., traffic preemption
- Installation of median separation to prevent vehicles from driving around railroad crossing gates
- Prohibition of parking within 100 feet of crossings to improve the visibility of warning devices and approaching trains
- Installation of pedestrian-specific warning devices, channelization and sidewalks
- Construction of pull out lanes for buses and vehicles transporting hazardous materials
- Installation of vandal-resistant fencing or walls to limit the access of pedestrians onto the railroad right-of-way
- Elimination of driveways near crossings
- Increased enforcement of traffic laws at crossings
- Rail safety awareness programs to educate the public about the hazards of highway-rail grade crossings.

Commission approval is required to modify an existing highway-rail crossing or to construct a new crossing.

Thank you for your consideration of these comments. If you have any questions, please contact me at (415) 713-0092 or email at [ms2@cpuc.ca.gov](mailto:ms2@cpuc.ca.gov)

**Response A-2:** Based upon the final determination of the crossing gate by UPRR and the final determination of driveway operational safety by the City, the City may require one or more of the aforementioned rail safety measures to be incorporated into the project. The City will coordinate with UPRR on this issue during the PD Permit process.



**B. RESPONSE TO COMMENTS FROM CALIFORNIA DEPARTMENT OF TRANSPORTATION, APRIL 20, 2011:**

**Comment B-1:** Thank you for including the California Department of Transportation (Department) in the environmental review process for the Sun Garden Retail Center. The following comments are based on the Draft Transportation Impact Analysis (TIA) included in the Draft Environmental Impact Report (DEIR).

As the lead agency, the City of San José (City) is responsible for all project mitigation, including any needed improvements to state highways. The project's fair share contribution, financing, scheduling, implementation responsibilities and lead agency monitoring should be fully discussed for all proposed mitigation measures. This information should also be presented in the Mitigation Monitoring and Reporting Plan for the environmental document.

**Response B-1:** As discussed in Sections 4.8.2.5 and 4.8.3.2 of the DEIR, the proposed project will not have a significant impact on the level of service (LOS) of any freeway segment or local intersection in the project area in the AM or PM Peak Hour. In addition, the project will not have a significant impact on existing transit, bicycle, or pedestrian facilities. As a result, no traffic related mitigation measures are required or proposed.

A Mitigation Monitoring or Reporting Plan (MMRP) will be prepared for identified impacts to other resource areas pursuant to the requirement of the California Environmental Quality Act (CEQA).

**Comment B-2:** Highway Operations:

1. The TIA should include analysis for freeway on-ramps and off-ramps in the project vicinity. Increase in traffic demand may cause on-ramp queues to spill back onto local streets and roads.
2. Currently Northbound State Route 87 (SR 87) is metered in the AM and Southbound SR 87 is metered in the PM. Please include SR 87 Southbound Off-Ramp/Lelong Street in the TIA.
3. Along Interstate 280 (I-280) in the vicinity of the Sun Garden Retail Center project, ramp meters are planned to be activated in the northbound direction in the AM and in the southbound direction in the PM.
4. Please include the following intersection analysis in the TIA:
  - I-280 Southbound Off-Ramp/East Virginia Street
  - I-280 Northbound Off-Ramp/11<sup>th</sup> Street
  - I-280 Northbound Off-Ramp/10<sup>th</sup> Street

**Response B-2:** The proposed neighborhood shopping center would predominately serve the local community and, as a result, the project is estimated to add very little traffic to the freeways in the area. Based on existing travel patterns in the study area, the locations of complimentary land uses, and the distance between the project site and the freeways, it was estimated that only six percent of the project trips would utilize SR 87 (three percent to/from the north and three percent to/from the south) and 10 percent of the project trips would utilize I-280 (five percent to/from the north and five percent to/from the south). The project trips added are well below the one percent per lane additional traffic volume threshold, so no

detailed freeway level of service or freeway ramp analysis was required and the project's affects on freeway ramps and through lanes are considered to be less than significant.

**Comment B-3:** Encroachment Permit – Please be advised that any work or traffic control that encroaches onto the State Right of Way (ROW) requires an encroachment permit that is issued by the Department. To apply, a completed encroachment permit application, environmental documentation and five (5) set [sic] of plans clearly indicating State ROW must be submitted to the California Department of Transportation, District 4 Permits Office.

Traffic related mitigation measures should be incorporated into the construction plans during the encroachment permit process. See the website link for more information: <http://www.dot.ca.gov/hq/traffops/developser/permits/> [sic] or please call District 4 Permits Office at (510) 622-0724 for any further information regarding encroachment permits.

Should you have any questions regarding this letter, please contact Jay Vega at (510) 286-0585, or [jay\\_vega@dot.ca.gov](mailto:jay_vega@dot.ca.gov).

**Response B-3:** The applicant will obtain all required permits prior to the start of construction.

There are no traffic related mitigation measures required or proposed as part of the project.

**C. RESPONSE TO COMMENTS FROM COUNTY OF SANTA CLARA ROADS AND AIRPORTS DEPARTMENT, MARCH 7, 2011:**

**Comment C-1:** We have received and reviewed the subject project above, and we have no comments.

Thank you for the opportunity to review and comment on this project. Please call me at (408) 573-2462 for any questions.

**Response C-1:** This letter is acknowledged.

**D. RESPONSE TO COMMENTS FROM SANTA CLARA VALLEY WATER DISTRICT, MARCH 10, 2011:**

**Comment D-1:** The Santa Clara Valley Water District (District) staff has reviewed the Draft Environmental Impact Report (DEIR) for the Sun Garden Redevelopment Project, received on March 3, 2011. The proposed project is not located adjacent to any District facilities or within any District right-of-way. In accordance with the District's Water Resources Protection Ordinance, a District permit is not required for this project.

**Response D-1:** This comment is acknowledged.

**Comment D-2:** The DEIR states that construction activities could degrade water quality in the Guadalupe River because the existing on-site storm drainage system discharges to the Guadalupe River. Measure [sic] should be taken to prevent pollutants and contaminants from entering the Guadalupe River.

If you have any questions or need further information, please contact me at (408) 265-2607, extension 2586. Please reference District File No. 28752 on any future correspondence regarding this project.

**Response D-2:** Section 4.4.3.1 (page 50) of the DEIR lists the project specific mitigation measures, based on Regional Water Quality Control Board Best Management Practices, which will be implemented during construction to reduce water quality impacts to a less than significant level.

**E. RESPONSE TO COMMENTS FROM SANTA CLARA VALLEY  
TRANSPORTATION AUTHORITY, APRIL 15, 2011:**

**Comment E-1:** Santa Clara Valley Transportation Authority (VTA) staff have reviewed the Draft EIR and TIA for construction of up to 257,296 square feet of new retail buildings on 20 acres on the east side of Monterey Road, south of Alma Avenue. VTA submitted comments on the Draft TIA by email on March 21, 2011, but we have reiterated and slightly expanded our comments for our review of the Draft EIR. We have the following comments.

Transportation Analysis – Freeway Analysis: Table 2 of the Draft TIA report included as Appendix C of the DEIR shows the number of project trips on the various segments of the freeways. Please provide clarification on how these numbers were determined. In addition, Figure 7 does not show the trip distribution pattern on the freeways. With the close proximity to the freeways SR 87 and I-280 to the development, VTA recommends providing the trip distributions on the freeways.

**Response E-1:** The proposed neighborhood shopping center would predominately serve the local community and, as a result, the project is estimated to add very little traffic to the freeways in the area. Based on existing travel patterns in the study area, the locations of complimentary land uses, and the distance between the project site and the freeway, it was estimated that six percent of the project trips would utilize SR 87 (three percent to/from the north and three percent to/from the south) and 10 percent of the project trips would utilize I-280 (five percent to/from the north and five percent to/from the south).

Trip distribution patterns on SR 87 and I-280 were not included because the project trips added to the freeways in the area are estimated to be well below the one percent per lane additional traffic volume threshold, so no detailed freeway level of service or freeway ramp analysis was required and the project's effects on freeway ramps and through lanes are considered to be less than significant.

**Comment E-2:** Transportation Analysis – CMP Intersections: Table 3 of the Draft TIA shows that CMP intersection Monterey Rd/Curtner Ave is operating at LOS D with an average delay of 51.5 seconds. According to the 2008 VTA Monitoring and Conformance report, this intersection is operating at LOS E with an average delay of 60.9 seconds. Please verify these numbers. The 2008 Monitoring and Conformance Report should be used for CMP intersection level of service analysis, and may be downloaded from [http://www.vta.org/news/vtacmp/2008\\_Monitoring\\_Report/](http://www.vta.org/news/vtacmp/2008_Monitoring_Report/). This report summarizes level of service (LOS) data for freeways, expressways and CMP intersections in Santa Clara County. For more information on this document please call Aiko Cuenco of the VTA CMA Division at 408-321-5684

**Response E-2:** The intersection LOS calculation contained in the 2008 CMP Monitoring and Conformance Report does not reflect the existing land configuration for the Monterey Road/Curtner Avenue intersection. The intersection now has a separate southbound right-turn lane and a second westbound left-turn lane. Taking into account the corrections to the lane geometry, the intersection currently operates at LOS D with an average delay of 51.5 seconds.

**Comment E-3:** Transportation Analysis – Freeway Ramp Analysis: It is recommended to include a queuing analysis of on and off ramps to determine if there is adequate storage on the freeway ramps, as described in Section 9.1.2 of the VTA CMP TIA Guidelines.

**Response E-3:** As stated above, the project trips added to freeways in the area are estimated to be well below the one percent per lane additional traffic volume threshold, so no detailed freeway level of service or freeway ramp analysis was required and the project's affects on freeway ramps and through lanes are considered to be less than significant.

**Comment E-4:** Transportation Analysis – Pedestrian Facilities: The Pedestrian Facilities section of the TIA Report notes that the project proposes a new signalized intersection at Monterey Road and Cottage Grove Avenue, and mentions improvements to the existing unsignalized crosswalk as part of this intersection work. VTA supports the addition of crosswalks at this intersection as a way of improving the safety and convenience of crossing Monterey Road, for travelers using the nearby bus stops as well as for other pedestrians.

**Response E-4:** This comment is acknowledged.

**Comment E-5:** The text of the TIA Report discusses sidewalks on the public street frontages near the project site as well as crosswalks on the signalized intersection in the study area. However, it does not appear to discuss pedestrian circulation within the project site. The VTA TIA Guidelines state on page 43 that “The assessment of site access shall include an analysis of the proposed pedestrian access and onsite circulation with recommendations to encourage pedestrian trips to the site. Include an assessment of pedestrian access between the site and the nearest bus stop.” The TIA Report should be revised to include this assessment.

**Response E-5:** The site plan available at the time the Draft TIA was prepared was conceptual only and did not include the detail required to evaluate on-site pedestrian circulation. A discussion of on-site pedestrian circulation will be addressed at the PD Permit stage. Pedestrian circulation on-site will be consistent with the City's ADA requirements.

Pedestrian access between the site and the existing bus stops is addressed in Chapter 6 of the Draft TIA.

**Comment E-6:** Greenhouse Gas Mitigation Measures – Bus Service: The DEIR identified a Significant Impact in the area of Greenhouse Gas Emissions, and states that the project shall include features to reduce vehicle travel, including pedestrian facilities for easy access and signage to bus stops (DEIR p. 107). VTA would like this development to provide a bus stop on NB Monterey near the improved Cottage Grove intersection so passengers will have a signalized pedestrian crossing across Monterey Road. South (NS) of the intersection is preferable for proper bus stop spacing if it can be placed in an area that will not interfere with vehicles turning right at Cottage Grove, into the development. This will replace the existing bus stop on NB Monterey just south of this development and the abandoned railroad crossing.

The bus stop should include:

- 10'x55' PCC bus stop pavement pad or duckout constructed to VTA details and specifications.
- Minimum 8' by 40' sidewalk adjacent to the bus stop area to accommodate passenger access per ADA requirements.
- Solar light with ADA compliant activation button on bus stop pole.
- All trees and landscaping should be placed outside of bus stop area, so they do not interfere with bus operations and passenger activity.

**Response E-6:** As a condition of approval, the City will require the applicant to move the aforementioned bus stop in conformance with the VTA specifications listed above.

**Comment E-7:** Greenhouse Gas Mitigation Measures – Bicycle Accommodations: The DEIR identifies a Significant Impact in the area of Greenhouse Gas Emissions, and states that bicycle amenities will be included in the project (DEIR p. 107). However, the DEIR does not appear to indicate how many Class 1 secure bike parking areas versus Class 2 bike racks will be provided by the project, and the TIA does not discuss bicycle parking. As noted on page 44 of the VTA TIA Guidelines, the TIA Report should calculate the required bicycle parking for the project, and indicate the Class 1 and Class 2 parking to be provided. VTA requests that the EIR and TIA specify the bicycle parking to be provided by the project, and we recommend that the City include bicycle parking as a specific, enforceable Condition of Approval of the project.

Thank you for the opportunity to review this project. If you have any questions, please call me at (408) 321-5784.

**Response E-7:** Page 5 of the DEIR states that the project will be required to provide designated parking for bicycles consistent with the City's zoning code. The City's bicycle parking requirement is one bicycle parking space per 3,000 square feet of floor area (Table 20-190 of the Zoning Code). As stated on page 5, the parking requirement is based on a total floor area of 218,702 square feet. This equates to a requirement of 73 bicycle parking spaces.

The final site design has not yet been approved. As such, the location and number of Class 1 and Class 2 parking spaces has not yet been finalized but will be finalized with the PD Permit. Nevertheless, the project will provide a total of 73 bicycle parking spaces.

#### IV. REVISIONS TO THE TEXT OF THE DRAFT EIR

The following section contains revisions/additions to the text of the *Draft Environmental Impact Report, Sun Garden Redevelopment Project*, dated March, 2011. Revised or new language is underlined. All deletions are shown ~~with a line through the text~~.

Page 9            Section 2.0, Description of the Proposed Project; the fourth paragraph in this section will be **REVISED** as follows:

The zoning code states that commercial developments are required to provide one bicycle parking space per 3,000 square feet of floor area (Table 20-190), one motorcycle space per 20 automobile spaces (table 20-250), and at least eight percent of the automobile spaces must be designated for clean air vehicles (Table 20-215). This equates to 73 bicycle parking spaces, 49 motorcycle parking spaces, and 78 spaces designated for clean air vehicles.

Page 84            Section 4.8.3.3, Transit, Bicycle, and Pedestrian Facilities Analysis; the second paragraph in this section will be **REVISED** as follows:

Assuming the existing transit service would remain unchanged, the total number of new transit rides would equate to less than one new rider per bus during the AM Peak Hour and one to two new riders per bus in the PM Peak Hour. These riders could be accommodated by the current available ridership capacity. No improvements to the existing transit service would be required to support the proposed project. Nevertheless, as a Condition of Project Approval, the City will require that the existing bus stop on the east side of Monterey Road, immediately south of the abandoned rail line and San José Avenue, be relocated to the north, adjacent to the project site frontage, consistent with VTA standards.

Page 84            Section 4.8.3.3, Transit, Bicycle, and Pedestrian Facilities Analysis; the fifth paragraph in this section will be **REVISED** as follows:

Overall the existing network of sidewalks in the study area has good connectivity and would provide pedestrians with a safe connection between their point of origin and the project site. While the project would slightly increase pedestrian travel in the project area, the existing pedestrian facilities are sufficient to support the proposed project. The proposed site plan is conceptual and does not have sufficient detail to evaluate on-site pedestrian circulation. On-site pedestrian circulation will be addressed at the PD Permit stage. Pedestrian access through the project site will comply with the City's ADA requirements.

Page 88            Section 4.8.4, Mitigation and Avoidance Measures for Transportation Impacts; the following will be **ADDED** after Section 4.8.4.1, General Plan Policies:

##### **4.8.4.2            Standard Measures**

While no significant impacts have been identified regarding the existing rail line, one or more of the following measures may be included in the project during final design, if feasible, to further avoid adverse rail safety impacts.



- Installation of grade separations at crossings, i.e., physically separating roads and railroad tracks by construction overpasses or underpasses
- Improvements to warning devices at existing highway-rail crossings
- Installation of additional warning devices
- Improvements to traffic signaling at intersections adjacent to crossings, e.g., traffic preemption
- Installation of median separation to prevent vehicles from driving around railroad crossing gates
- Prohibition of parking within 100 feet of crossings to improve the visibility of warning devices and approaching trains
- Installation of pedestrian-specific warning devices, channelization and sidewalks
- Installation of vandal-resistant fencing or walls to limit the access of pedestrians onto the railroad right-of-way
- Elimination of driveways near crossings
- Increased enforcement of traffic laws at crossings
- Rail safety awareness programs to educate the public about the hazards of highway-rail grade crossings.

Page 88      Section 4.8.5.2, Project Specific Mitigation; the title for this section will be revised as follows:

**4.8.5.2 4.8.4.3      Project Specific Mitigation**

Page 97      Section 4.9.2.2, Operational Project Emissions; the third paragraph in this section will be **REVISED** as follows:

The emissions listed in Table 17 represent the net increase in emissions from the proposed project site in 2015, when the project would likely be fully operational. These emissions take into account the various types of retail that are likely to occupy the site, including a restaurant and/or pharmacy with a drive-thru window. The total increase in average daily emissions from operation of the proposed project would be below the established BAAQMD significance thresholds. As a result, operation of the proposed project would have a less than significant air quality impact. (**Less Than Significant Impact**)

**V. COPIES OF THE COMMENT LETTERS RECEIVED ON THE DRAFT EIR**

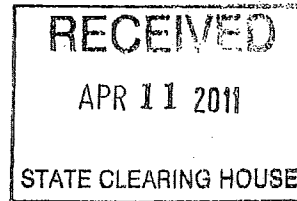
## PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298



February 22, 2011

OK'd  
4/13/11  
e



Janis Moore  
City of San Jose  
168 West Alisai Street, 3<sup>rd</sup> Floor  
San Jose, CA 95110-1905

Re: Notice of Preparation, Draft Environmental Impact Report (DEIR)  
Sun Garden Redevelopment Project, GP10-07-01 & PDC 10-026  
SCH# 2011012062

Dear Ms. Moore:

As the state agency responsible for rail safety within California, the California Public Utilities Commission (CPUC or Commission) recommends that development projects proposed near rail corridors be planned with the safety of these corridors in mind. New developments and improvements to existing facilities may increase vehicular traffic volumes, not only on streets and at intersections, but also at at-grade highway-rail crossings. In addition, projects may increase pedestrian traffic at crossings, and elsewhere along rail corridor rights-of-way. Working with CPUC staff early in project planning will help project proponents, agency staff, and other reviewers to identify potential project impacts and appropriate mitigation measures, and thereby improve the safety of motorists, pedestrians, railroad personnel, and railroad passengers.

The CPUC recommends the Transportation/Circulation section of the DEIR specifically evaluate traffic safety issues to the at-grade railroad crossings located in proximity to the proposed project site. Any increase in traffic by this project needs to be evaluated for potential impacts.

In general, the major types of impacts to consider are collisions between trains and vehicles, and between trains and pedestrians. Measures to reduce adverse impacts to rail safety need to be considered in the DEIR. General categories of such measures include:

- Installation of grade separations at crossings, i.e., physically separating roads and railroad track by constructing overpasses or underpasses
- Improvements to warning devices at existing highway-rail crossings
- Installation of additional warning devices
- Improvements to traffic signaling at intersections adjacent to crossings, e.g., traffic preemption
- Installation of median separation to prevent vehicles from driving around railroad crossing gates

Janis Moore

- Prohibition of parking within 100 feet of crossings to improve the visibility of warning devices and approaching trains
- Installation of pedestrian-specific warning devices, channelization and sidewalks
- Construction of pull out lanes for buses and vehicles transporting hazardous materials
- Installation of vandal-resistant fencing or walls to limit the access of pedestrians onto the railroad right-of-way
- Elimination of driveways near crossings
- Increased enforcement of traffic laws at crossings
- Rail safety awareness programs to educate the public about the hazards of highway-rail grade crossings

Commission approval is required to modify an existing highway-rail crossing or to construct a new crossing.

Thank you for your consideration of these comments. If you have any questions, please contact me at (415) 713-0092 or email at [ms2@cpuc.ca.gov](mailto:ms2@cpuc.ca.gov).

Sincerely,



Moses Stites  
Rail Corridor Safety Specialist  
Consumer Protection and Safety Division  
Rail Transit and Crossings Branch  
180 Promenade Circle, Suite 115  
Sacramento, CA 95834-2939

**DEPARTMENT OF TRANSPORTATION**

111 GRAND AVENUE  
P. O. BOX 23660  
OAKLAND, CA 94623-0660  
PHONE (510) 286-5536  
FAX (510) 286-5559  
TTY 711



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Be energy efficient!*

April 20, 2011

SCL280359  
SCL-280-1.55  
SCH #2011012062

Ms. Janis Moore  
City of San Jose  
200 East Santa Clara Street  
San Jose, CA 95113-1905

Dear Ms. Moore:

**Sun Garden Retail Center – Draft Environmental Impact Report**

Thank you for including the California Department of Transportation (Department) in the environmental review process for the Sun Garden Retail Center. The following comments are based on the Draft Transportation Impact Analysis (TIA) included in the Draft Environmental Impact Report (DEIR).

As the lead agency, the City of San Jose (City) is responsible for all project mitigation, including any needed improvements to state highways. The project's fair share contribution, financing, scheduling, implementation responsibilities and lead agency monitoring should be fully discussed for all proposed mitigation measures. This information should also be presented in the Mitigation Monitoring and Reporting Plan of the environmental document.

**Highway Operations**

1. The TIA should include analysis for freeway on-ramps and off-ramps in the project vicinity. Increase in traffic demand may cause on-ramp queues to spill back onto local streets and roads.
2. Currently Northbound State Route 87 (SR 87) is metered in the AM and Southbound SR 87 is metered in the PM. Please include SR 87 Southbound Off-Ramp/Lelong Street in the TIA.
3. Along Interstate 280 (I-280) in the vicinity of the Sun Garden Retail Center project, ramp meters are planned to be activated in the northbound direction in the AM and in the southbound direction in the PM.

4. Please include the following intersection analysis in the TIA:

- I-280 Southbound Off-Ramp/East Virginia Street
- I-280 Northbound Off-Ramp/11<sup>th</sup> Street
- I-280 Northbound Off-Ramp/10<sup>th</sup> Street

**Encroachment Permit**

Please be advised that any work or traffic control that encroaches onto the State Right of Way (ROW) requires an encroachment permit that is issued by the Department. To apply, a completed encroachment permit application, environmental documentation and five (5) set of plans clearly indicating State ROW must be submitted to the California Department of Transportation, District 4 Permits Office.

Traffic related mitigation measures should be incorporated into the construction plans during the encroachment permit process. See the website link for more information:

<http://www.dot.ca.gov/hq/traffops/developser/permits/> or please call District 4 Permits Office at (510) 622-0724 for any further information regarding encroachment permits.

Should you have any questions regarding this letter, please contact Jay Vega at (510) 286-0585, or [jay\\_vega@dot.ca.gov](mailto:jay_vega@dot.ca.gov).

Sincerely,

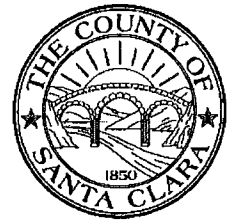


BECKY FRANK  
District Branch Chief  
Federal Grants / Rail Coordination

c: State Clearinghouse

# County of Santa Clara

Roads and Airports Department



101 Skyport Drive  
San Jose, California 95110-1302  
(408) 573-2400

March 7, 2011

Ms. Janis Moore  
Department of Planning, Building and Code Enforcement  
City of San Jose  
200 East Santa Clara Street, 3<sup>rd</sup> Floor  
San Jose, CA 95113

Subject: Notice of Availability of Draft Environmental Impact Report for Sun Garden Redevelopment  
File No: GP10-07-01 and PDC10-026

Dear Ms. Moore:

We have received and reviewed the subject project above, and we have no comments.

Thank you for the opportunity to review and comment on this project. Please call me at (408) 573-2462 for any questions.

Sincerely,

Felix Lopez  
Project Engineer

cc: MA, RS, WRL, RN, file

**From:** Kathrin Turner [<mailto:KTurner@valleywater.org>]  
**Sent:** Thursday, March 10, 2011 9:56 AM  
**To:** Moore, Janis  
**Cc:** Kathrin Turner  
**Subject:** Sun Garden Redevelopment - PDC10-026 GP10-07-01

Dear Janis,

The Santa Clara Valley Water District (District) staff has reviewed the Draft Environmental Impact Report (DEIR) for the Sun Garden Redevelopment Project, received on March 3, 2011. The proposed project is not located adjacent to any District facilities or within any District right-of-way. In accordance with the District's Water Resources Protection Ordinance, a District permit is not required for this project.


The DEIR states that construction activities could degrade water quality in the Guadalupe River because the existing on-site storm drainage system discharges to the Guadalupe River. Measure should be taken to prevent pollutants and contaminants from entering the Guadalupe River.

If you have any questions or need further information, please contact me at (408) 265-2607, extension 2586. Please reference District File No. 28752 on any future correspondence regarding this project.

Sincerely,

kat

*Kathrin A. Turner*

 [kturner@valleywater.org](mailto:kturner@valleywater.org)


Assistant Engineer II


Santa Clara Valley Water District

Community Projects Review Unit

5750 Almaden Expressway

San Jose, CA 95118-3614

 Phone (408) 265-2607 ext. 2586

 Fax (408) 979-5635





April 15, 2011

City of San Jose  
Department of Planning and Building  
200 East Santa Clara Street  
San Jose, CA 95113

Attention: Janis Moore

Subject: City File No. GP10-07-01 / Sun Garden Redevelopment Project

Dear Ms. Moore:

Santa Clara Valley Transportation Authority (VTA) staff have reviewed the Draft EIR and TIA for construction of up to 257,296 square feet of new retail buildings on 20 acres on the east side of Monterey Road, south of Alma Avenue. VTA submitted comments on the Draft TIA by email on March 21, 2011, but we have reiterated and slightly expanded our comments for our review of the Draft EIR. We have the following comments.

Transportation Analysis - Freeway Analysis

Table 2 of the Draft TIA report included as Appendix C of the DEIR shows the number of project trips on the various segments of the freeways. Please provide clarification on how these numbers were determined. In addition, Figure 7 does not show the trip distribution pattern on the freeways. With the close proximity of the freeways SR 87 and I-280 to the development, VTA recommends providing the trip distributions on the freeways.

Transportation Analysis - CMP Intersections

Table 3 of the Draft TIA report shows that CMP intersection Monterey Road/Curtner Avenue is operating at LOS D with an average delay of 51.5 seconds. According to the 2008 VTA Monitoring and Conformance report, this intersection is operating at LOS E with an average delay of 60.9 seconds. Please verify these numbers. The 2008 Monitoring and Conformance Report should be used for CMP intersection level of service analysis, and may be downloaded from [http://www.vta.org/news/vtacmp/2008\\_Monitoring\\_Report/](http://www.vta.org/news/vtacmp/2008_Monitoring_Report/). This report summarizes level of service (LOS) data for freeways, expressways and CMP intersections in Santa Clara County. For more information on this document please call Aiko Cuenco of the VTA CMA Division at 408-321-5684

Transportation Analysis - Freeway Ramp Analysis

It is recommended to include a queuing analysis of on and off ramps to determine if there is adequate storage on the freeway ramps, as described in Section 9.1.2 of the VTA CMP TIA Guidelines.

#### Transportation Analysis - Pedestrian Facilities

The Pedestrian Facilities section of the TIA Report notes that the project proposes a new signalized intersection at Monterey Road and Cottage Grove Avenue, and mentions improvements to the existing unsignalized crosswalk as part of this intersection work. VTA supports the addition of crosswalks at this intersection as a way of improving the safety and convenience of crossing Monterey Road, for travelers using the nearby bus stops as well as for other pedestrians.

The text of the TIA Report discusses sidewalks on the public street frontages near the project site as well as crosswalks on the signalized intersections in the study area. However, it does not appear to discuss pedestrian circulation within the project site. The VTA TIA Guidelines state on page 43 that "The assessment of site access shall include an analysis of the proposed pedestrian access and onsite circulation with recommendations to encourage pedestrian trips to the site. Include an assessment of pedestrian access between the site and the nearest bus stops." The TIA Report should be revised to include this assessment.

#### Greenhouse Gas Mitigation Measures - Bus Service

The DEIR identifies a Significant Impact in the area of Greenhouse Gas Emissions, and states that the project shall include features to reduce vehicle travel, including pedestrian facilities for easy access and signage to bus stops (DEIR p. 107). VTA would like this development to provide a bus stop on NB Monterey near the improved Cottage Grove intersection so passengers will have a signalized pedestrian crossing across Monterey Road. South (NS) of the intersection is preferable for proper bus stop spacing if it can be placed in an area that will not interfere with vehicles turning right at Cottage Grove, into the development. This will replace the existing bus stop on NB Monterey just south of this development and the abandoned railroad crossing.

The bus stop should include:

- 10' X 55' PCC bus stop pavement pad or duckout constructed to VTA details and specifications.
- Minimum 8' X 40' sidewalk adjacent to the bus stop area to accommodate passenger access per ADA requirements.
- Solar light with ADA compliant activation button on bus stop pole.
- All trees and landscaping should be placed outside of bus stop area, so they do not interfere with bus operations and passenger activity.

#### Greenhouse Gas Mitigation Measures - Bicycle Accommodations

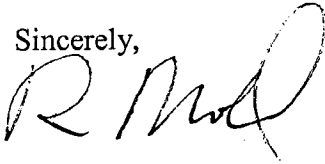
The DEIR identifies a Significant Impact in the area of Greenhouse Gas Emissions, and states that bicycle amenities will be included in the project (DEIR, p. 107). However, the DEIR does

City of San Jose  
April 15, 2011  
Page 3

not appear to indicate how many Class 1 secure bike parking areas versus Class 2 bike racks will be provided by the project, and the TIA does not discuss bicycle parking. As noted on page 44 of the VTA TIA Guidelines, the TIA Report should calculate the required bicycle parking for the project, and indicate the Class 1 and Class 2 parking to be provided. VTA requests that the EIR and TIA specify the bicycle parking to be provided by the project, and we recommend that the City include bicycle parking as a specific, enforceable Condition of Approval of the project.

Thank you for the opportunity to review this project. If you have any questions, please call me at (408) 321-5784.

Sincerely,

A handwritten signature in black ink, appearing to read 'R Molseed', written over a horizontal line.

Roy Molseed  
Senior Environmental Planner

cc: Ebrahim Sohbrabi, San Jose Public Works  
Karen Mack, San Jose Public Works

SJ1101